



NOTICE

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification of Consent Decree
Under The Clean Water Act and Oil Pollution Act

On September 15, 2021, the Department of Justice lodged with the United States District Court for the Western District of Michigan a proposed Sixth Modification of Consent Decree (“Sixth Modification”) in the lawsuit entitled *United States v. Enbridge Energy, Limited Partnership, et al.*, Civil Action No. 1:16-cv-914.

On May 23, 2017, the United States District Court for the Western District of Michigan approved and entered a Consent Decree that resolved specified claims asserted by the United States against Enbridge Energy, Limited Partnership and eight affiliated entities (“Enbridge”) under the Clean Water Act and Oil Pollution Act arising from two separate 2010 oil spills resulting from failures of Enbridge oil transmission pipelines near Marshall, Michigan and Romeoville, Illinois. The complaint filed by the United States alleged that Enbridge’s pipelines had unlawfully discharged oil into waters of the United States and sought civil penalties, recovery of removal costs, and injunctive relief. The Consent Decree established various requirements applicable to a network of 14 pipelines that comprise Enbridge’s Lakehead System -- including dig selection criteria governing excavation, repair or mitigation, and imposition of interim pressure restrictions for various features, such as dents, corrosion and cracks, that are detected through In-Line Inspections (“ILI”) of such pipelines. Because certain of these dig selection criteria are based in part on the Established Maximum Operating Pressure (“EMOP”) applicable to the pipeline location where the particular feature is located, the Consent Decree incorporated by reference EMOP values established for each of the pipelines subject to the Consent Decree.

The proposed Sixth Modification would revise certain EMOP values to reflect new information developed during an MOP Verification Project undertaken between 2015 and

December of 2020. In addition to revising EMOP values for purposes of implementing dig selection criteria, the proposed Sixth Modification establishes new provisions directly restricting operating pressures on pipelines subject to the Consent Decree, including: (1) an explicit prohibition on exceeding EMOP values except in limited circumstances involving surges or other variations from normal pipeline operations, and (2) new reporting requirements and stipulated penalty provisions relating to pipeline operating pressure provisions. Finally, in certain cases where the MOP Verification Project developed new information regarding pipe wall thickness at particular pipeline locations, the proposed Sixth Modification would require Enbridge to re-evaluate features and identify any additional features that meet Consent Decree dig selection criteria when revised pipe wall thickness information is taken into consideration.

The publication of this notice opens a period for public comment on the proposed Sixth Modification of Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Enbridge Energy, Limited Partnership, et al.*, D.J. Ref. No. 90-5-1-1-10099. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the proposed Sixth Modification of Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. The Justice Department will provide a paper copy of the proposed Sixth Modification of Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

In requesting a paper copy, please enclose a check or money order for \$7.00 (25 cents per page reproduction cost) payable to the United States Treasury.

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